

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

ELAINE HERRERA,

Plaintiff,

v.

No. CV 19-140 CG

ANDREW SAUL,  
Commissioner of the  
Social Security Administration,

Defendant.

**ORDER GRANTING JOINT MOTION TO AWARD ATTORNEY FEES  
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

**THIS MATTER** is before the Court on the parties' *Joint Motion for Order Approving Stipulation of Award of Attorney Fees Under the Equal Access to Justice Act* (the "Stipulated Motion"), (Doc. 27), filed February 3, 2020. The Court, having reviewed the Stipulated Motion under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, finds the Stipulated Motion is well-taken and attorney fees shall be awarded, made payable to Plaintiff but mailed to Plaintiff's attorney in the amount of \$4,430.00. See *Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney). All other provisions addressed in the parties' Stipulated Motion are adopted herein.

**IT IS THEREFORE ORDERED** that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

**IT IS SO ORDERED.**



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THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE